



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

THE WIFE OF GAIUS GRACCHUS AND HER DOWRY

We are told by Plutarch, *C. Gracch.* 17, 4: τὰς οὐσίας αὐτῶν (sc. the Gracchans) ἀπέδοντο πρὸς τὸ δημόσιον. Ἀπείπον δὲ πενθεὶν ταῖς γυναῖξί· τὴν δὲ Γαίου Λικιννίαν καὶ τῆς προικὸς ἀπεστέρησαν.

The statement has been generally accepted: Mommsen, II*, 127: "aus dem Vermögen der getödteten oder verurtheilten Hochverräther, das bis auf die Mitgift ihrer Frauen confiscirt ward," etc.; Leo Bloch, *Soziale Kämpfe im alten Rom*, p. 115: "der Wittwe des Gracchus nahm man selbst ihre Mitgift."

Confiscation of a wife's dowry is, however, a most extraordinary measure, which it would be difficult to parallel in the entire course of Roman history except in those cases in which the wife is charged with direct complicity in her husband's guilt. Did the senate actually carry out such a measure here?

It may be noticed, in the first place, that the senate need not have specifically ordered the seizure of Licinia's dowry, in order to cause her to lose it. The *dos*, of course, was in possession of her husband up to the moment of his death. If the commissioners who were to carry out the confiscation took possession of all the property apparently belonging to Gaius Gracchus, they must necessarily have seized the *res dotales* as well in which Gracchus had only a usufruct. Licinia would in this case very effectively have been deprived of her property, although it could not be said to have been confiscated.

But we should have to admit the substantial accuracy of the report, if the dowry of Licinia had in this way been lost, even if there had technically been no confiscation. If however, the seizure was legally repudiated, the case is widely different. A passage which has seemingly been overlooked may throw light on the whole situation that followed the murder of Gaius:

Dig. 24, 3, 66, pr.: "In his rebus quas praeter numeratam pecuniam doti vir habet, dolum malum et culpam eum praestare oportere Servius ait. ea sententia Publii Mucii est: nam in Licinnia Gracchi uxore, quod res dotales in ea seditione qua Gracchus occisus erat, perissent, ait, quia Gracchi culpa ea seditio facta esset, Licinniae praestari oportere."

The passage comes from the 6th book of Iavolenus' commentaries on the posthumous writings of Labeo. Either through Labeo or directly, he quotes Servius Sulpicius Rufus (probably the *de dotibus*), and from the same source, the actual decision of Publius Scaevola himself. This is of course, incomparably better authority than either Plutarch or, indeed, any of his sources. We are dealing, as a matter of fact, with a contemporary record the transmission of which possesses unimpeachable authenticity.

It is clear that Licinia gets her *dos* back, or part of it. She does not lose it, either as a matter of law or fact. Plutarch is, therefore, wrong. The error probably arose from a misunderstood account of the suit of Licinia.¹

¹ The suit would further settle the question of who Gaius' wife was. Plutarch, following the majority of writers, makes her name Licinia. Nepos (*Plut. Tib. Gr.* 21, 2)

But there are difficulties in the situation. Licinia sues, probably by the usual *actio rei uxoriae*, for the recovery of her dowry. But whom? Who had the property which formed part of her *dos*? Mommsen (*op. cit.*) states that the temple of Concord was erected from the proceeds of the Gracchan confiscations. This is nowhere stated in the sources. If the confiscated property was treated, as similar property was later in the Sullan proscriptions, it was sold at public auction like booty taken in war. Now, Licinia, in case of a divorce could have sued her husband for the return of her dowry. In the case of his death, his heirs. To whom could she look for relief, when, by the confiscation of Gracchus' property, the *hereditas*, as far as it was material, was destroyed? Evidently to those to whom the estate was knocked down by the auctioneer, to Gracchus' successors in title.

But in this case the *res dotales* were no longer in existence. It was accordingly not a *fundus* that was concerned, but personal property. Appian tells us (i. 26): ὁ δὲ δῆμος αὐτῶν [sc. Γράκχου καὶ Φλάκκου] τὰς οἰκίας διήρπαξε. Appian means, to be sure, not the *δῆμος* proper, the *plebs Romana*, but the hired thugs who formed the main part of the consul's forces, or possibly the non-Roman riff-raff of the city which seized the occasion to plunder. However that may be, the *res dotales* were gone. Licinia sues those who bid in the estate at the auction. Perhaps one man purchased it in bulk.¹ The defense is that the *res* have perished by accident. By a rule of law, the husband or his successors in title are liable for losses incurred by gross negligence or the various species of fraud comprised in *dolus*. The case goes before a *iudex*—in this case, the pontifex maximus, Publius Scaevola. His decision is that, as Gaius was primarily responsible for the riot in which the goods disappeared they were lost by his *culpa*, Licinia was, therefore, entitled to compensation from the estate.

The reasoning seems strained. As a matter of fact, the impartiality of Scaevola might easily be challenged. He was a blood-brother of Publius Crassus Mucianus, who had become by adoption a brother of Licinia and was, indeed, her quasiguardian after Gaius' death. Scaevola, himself, we remember as the drafter of Tiberius' landbills and as consul in 133 B.C. when he refused to countenance the illegal proceedings of the senate. That some utterances of his, afterward, indicated little real sympathy for the Gracchans, may have been shifty prudence or the caution of the trained legalist. This decision, probably, was a characteristic political move on his part.

We are not told when the case was decided. Evidently long before the reaction in favor of the Gracchi which sent Rupilius Popilius Optimus and others into exile, for the responsibility for the riot is placed on Gaius. We

stated that she was a daughter of Decimus Brutus Gallaeus. The same statement is made in the *Liber Memorialis* of Ampelius (18, 4), probably from Nepos. Gaius may have married twice.

¹ Cf. the case of Antony when Pompey's property was sold (Cic. *Phil.* ii. 64). In the same oration (§ 62) Antony is called, to be sure ironically, the *heres* of Pompey.

cannot suppose that actual necessity impelled a woman living under the roof of the Crassus who was surnamed Dives, to sue for such meager personalty as could have been carried off or destroyed in a riot. We shall best understand the case as an attack on Gaius' enemies, directed by one to whom fine distinctions and forced interpretations were no new thing (cf. *De Leg.* ii. 53; Gellius 17, 7, 3). It qualifies our ideas of the orgy of violent repression, in which we are told Opimius indulged after the slaughter on the Aventine to know that the ordinary processes of law might be instituted against the victors, and that the pontifex maximus, as iudex in a private case, did not hesitate to defy the resentment of a party, already impatient of his precision, (cf. *Plut. Tib. Gr.* 19, 3; *Val. Max.* 3, 2, 17) by a strained application of a rule of law.

MAX RADIN

NEWTON HIGH SCHOOL
NEW YORK CITY

NOTES ON JUVENAL

In the *Classical Review*, XXVI, 22, Professor Paul Nixon briefly discusses Juvenal 7. 127-28 and 8. 4-5. In both passages, he says, Juvenal is really seeking to draw a picture of grandeur, of wealth and high position; into both passages he injects incongruous elements, by introducing epithets which suggest rather dilapidation: *curvatum, lusca, dimidios umerosque minorem*. In both passages, then, Juvenal to some extent defeats his own intentions; "In neither case is the poet able to refrain from irrelevant sarcasm." I am not so sure that the sarcasm is irrelevant; in both cases the satirist is having his fling at the same point, that in the estimation of the general any appearance of gentility, however sorry, has weight.

But I prefer for the moment to accept Professor Nixon's point of view, and to cite some other passages of Juvenal more or less akin. In the third Satire Juvenal is arguing with might and main that there is no place in Rome for an honorable poor man. Examine now carefully 46-48:

me nemo ministro
fur erit atque ideo nulli comes exeo, tamquam
mancus et exstinctae corpus non utile dextrae.

The satirist implies that every provincial governor and every *comes* of such a governor is a *fur*: hence he himself will never be *comes* of a governor. All this occurs in a lamentation of the difficulty of getting on at Rome! Hence it is clear that Juvenal is saying in effect, most illogically, "I am an honorable man and so I never get a chance—confound it—at dishonorable gains!

In l. 139-40 we have

Nullus iam parasitus erit! Sed quis ferat istas
luxuriae sordes?